

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE: NEW ENGLAND COMPOUNDING :  
PHARMACY, INC; PRODUCTS : MDL No 2419  
LIABILITY LITIGATION :  
: Master Dkt.  
: 1:13-md-02419-FDS  
THIS DOCUMENT RELATES TO: :  
: Judge Rya Zobel  
All Cases Identified in :  
Docket No. 1472-1 :  
:

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VIDEOTAPED DEPOSITION  
OF MICHAEL O'NEAL

9:07 a.m.  
January 11, 2016

Gideon Cooper & Essary  
Suite 1100  
315 Deaderick Street  
Nashville, Tennessee

Susan DeCarlo, RPR, CCR No. B-2125

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1           **A.**           It was a nine-month -- it was back  
2           in 2000 -- I can't even remember -- I think that  
3           it was 2009 it was just a certification for  
4           leadership.

5           **Q.**           Okay. Thank you. And I understand  
6           you are now employed at Vanderbilt; is that  
7           correct?

8           **A.**           That's correct.

9           **Q.**           Can you give me just a brief  
10          thumbnail sketch of your employment history post  
11          graduation from Auburn up to present day?

12          **A.**           Sure. It's rather easy. I worked  
13          for about three months for Eckerd drug here in  
14          Nashville and I have been at Vanderbilt ever  
15          since. I have been at Vanderbilt since November  
16          of 1991.

17          **Q.**           That is an easy work history to  
18          remember.

19          **A.**           Yeah.

20          **Q.**           And why did you leave Eckerd?

21          **A.**           I just wanted to be in a hospital  
22          pharmacy. I actually had an offer with  
23          Vanderbilt. I was just waiting for a position.

24          **Q.**           Okay. And do you do any other work  
25          on the side, consulting work or other work of

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1       that nature?

2           **A.**           I am a consultant for surgery  
3       centers, several surgery centers here in  
4       Nashville or in this region.

5           **Q.**           How many surgery centers do you  
6       consult for?

7           **A.**           Currently I have 21 clients.

8           **Q.**           And STOPNC is one of those clients?

9           **A.**           Yes, it is.

10          **Q.**           Do you do any other work for Howell  
11       Allen?

12          **A.**           No, I do not.

13          **Q.**           Do you do any work for any other  
14       clinics that are jointly owned by Howell Allen  
15       and other parties?

16          **A.**           No, I do not.

17          **Q.**           Describe your job responsibilities  
18       at Vanderbilt, please.

19          **A.**           Currently I am a procurement merger  
20       so I am a management level over procurement and  
21       inventory management.

22          **Q.**           For the hospital pharmacy?

23          **A.**           Correct, for the hospital pharmacy.

24          **Q.**           So by procurement you are only  
25       going out and finding the pharmaceutical products

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1 contract template, that I felt like provided an  
2 infrastructure for the services that I would  
3 render to them.

4 Q. I am going to show you a document  
5 that I am going to hopefully mark correctly as  
6 Exhibit 865 and I am going to ask you to take a  
7 look at this. And the question that I am going  
8 to ask you after you look at it and review it is  
9 do you recognize this document.

10 A. Yes, sir, I do.

11 (Exhibit Number 865, Pharmacy  
12 Consulting Contract, was marked for  
13 identification.)

14 BY MR. STRANCH:

15 Q. What is this document?

16 A. This is my consulting contract with  
17 St. Thomas Outpatient Neurosurgical Center and  
18 myself, so the dates I -- it must have been  
19 earlier in the year because I see that this is  
20 February of 2007.

21 Q. All right. And you signed it March  
22 of '07, correct?

23 A. That's correct.

24 Q. And this is your form contract that  
25 was in use in 2007?

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1           Q.           Okay. So when was the first time  
2           that you can recall actually being in STOPNC's  
3           facilities?

4           A.           I can't tell you specifically, but  
5           I would guess it was either February or March of  
6           2007.

7           Q.           Okay. And do you recall what the  
8           purpose of your first visit to the facility was?

9           A.           I would say the purpose was not any  
10          different than the purpose ever is; it's just to  
11          go in and do a formal and thorough inspection and  
12          then to provide any report back to the facility  
13          about things that I had found based on my  
14          expertise and knowledge in regards to how  
15          medication management should occur in a surgery  
16          center.

17          Q.           And this is a standard inspection  
18          you do for all your clients?

19          A.           It is, yes, sir.

20          Q.           And can you describe what that  
21          inspection consists of?

22          A.           Sure. So I examine medication  
23          management storage areas. I review their  
24          narcotic paperwork to determine if it's meeting  
25          the DEA guidelines in regards to signatures and

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1 co-signatures. I am a third party or I consider  
2 myself a third party for reviewing any potential  
3 diversion of controlled substances, so a lot of  
4 time is spent with actual controlled substance  
5 management. In addition, I will review  
6 expiration dates of products. I will basically  
7 do what I consider an environment of care survey  
8 looking at temperatures of refrigeration, making  
9 sure that medications are stored properly  
10 according to the package insert by the FDA,  
11 approved by the FDA. So it's really just kind of  
12 a monthly, as I call it, housekeeping. And there  
13 is multiple compliance and regulatory points that  
14 I review and basically review that and then  
15 report back about either compliance or  
16 noncompliance.

17 Q. Okay. And is that predominantly  
18 what service you provided to all of your clinic  
19 clients?

20 A. It would be the predominant  
21 service, yes, that is correct.

22 Q. And are you an employee of STOPNC?

23 A. No, I am not.

24 Q. Okay. So you are a vendor of  
25 STOPNC who provides them a service?

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1 BY MR. STRANCH:

2 Q. Okay. Do you also provide any  
3 advice on medication procurement to your clients?

4 A. If a client asks me about  
5 procurement of certain drugs, then I would  
6 provide that information. It's certainly within  
7 the scope of what I would consider my level of  
8 expertise and would provide consultation in that  
9 area.

10 Q. But the burden is on the clinic to  
11 come to you and say we have a question about  
12 this, correct?

13 A. In general. In general.

14 MR. STRANCH: Why don't we go off  
15 the record for a second while we fix that  
16 and I will see if we can change these  
17 blinds.

18 THE VIDEOGRAPHER: Off the record  
19 at 9:29.

20 (Recess.)

21 THE VIDEOGRAPHER: Back on the  
22 record at 9:30.

23 BY MR. STRANCH:

24 Q. And let's just go through this  
25 document, your 2007 contract, because you have

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1 is that what that --

2 A. That's correct, with a facility  
3 staff.

4 Q. Okay.

5 A. And then sign off on that  
6 statement.

7 Q. To assure proper documentation and  
8 recordkeeping between the pharmacy records and  
9 the patient's medical records. So explain what  
10 that would entail.

11 A. So this would entail, again, my  
12 third-party view, if you will, for the actual  
13 recordkeeping of -- if there is documentation of  
14 a medication being administered and what is  
15 actually documented in the chart. This primarily  
16 refers to controlled substance administration  
17 where if a staff member or anyone stated they  
18 gave a certain amount of the narcotic, then that  
19 would be both on the center's documentation and  
20 in the patient's medical record. It's just a  
21 reconciliation of the two to prevent diversion or  
22 to detect diversion.

23 Q. So it's not the sort of thing that  
24 you would be doing to track which lots of a drug  
25 were given to which patient?



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1           **A.**           That is correct. It would not be  
2           that. Now, it could be if I was requested.  
3           Again, that is beyond the scope of my service,  
4           but a lot of times it was primarily just for  
5           documentation of controlled substances.

6           **Q.**           Did STOPNC ever ask you to help  
7           with lot tracking for drugs that were dispensed  
8           to patients?

9           **A.**           Lot tracking, no.

10          **Q.**          Was there anything else that -- any  
11          other services that you provided that we have not  
12          discussed here that you believed you were  
13          obligated to provide under this contract?

14          **A.**          No, sir, this embodied basically my  
15          services to STOPNC.

16          **Q.**          Okay. And let me ask you, so after  
17          you would do one of these monthly visits, what --  
18          you would take your 30, 35 minutes and do it and  
19          then what would due to memorialize that?

20          **A.**          I would type up -- I have a form  
21          report that I send STOPNC and then I would score  
22          them as either compliant or noncompliant on each  
23          line within that report and then for noncompliant  
24          issues I would give them a written explanation  
25          for why they are not compliant.

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1           **Q.**           Do you have a copy of one of those  
2 forms that we can see?

3           **A.**           I do not. My attorney has one.

4                       MR. PINCKNEY: I do. Do you want  
5 to see it?

6                       MR. STRANCH: I would love to see  
7 one.

8                       MR. PINCKNEY: (Tendered.)

9                       MR. STRANCH: Why don't we take a  
10 quick break, get some copies of this and I  
11 just want to make it an exhibit so we have a  
12 list of what there is that you are doing.

13                      THE VIDEOGRAPHER: Off the record  
14 at 9:46.

15                      (Recess.)

16                      THE VIDEOGRAPHER: Back on the  
17 record at 9:58.

18                      (Exhibit Number 866, Monthly  
19 Inspection Template, was marked for  
20 identification.)

21 BY MR. STRANCH:

22           **Q.**           Okay. I am going to hand you a  
23 document that I have marked as Exhibit 866 and  
24 ask if you can identify that document after  
25 reviewing it? (Tendered.)

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1           **A.**           Yes, I can.

2           **Q.**           What is this?

3           **A.**           This is a template for my monthly  
4 inspections that I provide to STOPNC.

5           **Q.**           So this is everything that you do  
6 in your monthly inspection, correct?

7           **A.**           Yes. In the actual physical direct  
8 observation inspection, that's correct.

9           **Q.**           Okay. And there is -- and this is  
10 all about storage, documentation, sorts of  
11 things; and it does not deal with procurement,  
12 correct?

13          **A.**           That's correct.

14          **Q.**           Okay. Let's go back to 865 real  
15 quick which is your '07 contract. I just want to  
16 confirm is that your signature as a pharmacist  
17 down at the bottom?

18          **A.**           Yes.

19          **Q.**           It's dated March 20, 2007, correct?

20          **A.**           That's correct.

21          **Q.**           Do you recall when you began  
22 issuing monthly reports to STOPNC?

23          **A.**           Not specifically, no, I don't.

24          **Q.**           Did you ever report to a peer  
25 review committee at STOPNC?

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1           **A.**           It depends on how you define  
2       report. It's my understanding that this report  
3       does go back and is reported back through the  
4       medical executive committee, so I don't know if  
5       it's tabulated -- I don't know, but, yes, this  
6       information goes back to the MEC.

7           **Q.**           Did you ever meet with the MEC?

8           **A.**           Not directly, no, sir.

9           **Q.**           Do you know who is on the MEC?

10          **A.**           I don't know specifically, no, I  
11       don't.

12          **Q.**           And your contact with either Tina  
13       Sullivan or Debbie Schamberg, correct?

14          **A.**           That's correct.

15          **Q.**           And so anything that you provided  
16       would have been to them, correct?

17          **A.**           Not all the time. There was a  
18       nurse, again as I mentioned, the nurse manager  
19       that was not the administer of the facility that  
20       I would provide my reports to directly and then  
21       there were times when I may or may not include  
22       Debra or Tina.

23          **Q.**           But those two individuals would  
24       have been the only people that you would have  
25       communicated your reports to, correct?

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1           **A.**           Correct.

2           **Q.**           So you did not send your reports to  
3 Dr. Culclasure?

4           **A.**           No.

5           **Q.**           And you were never called to meet  
6 with any peer review committee to discuss any of  
7 your findings?

8           **A.**           No, I was not.

9           **Q.**           And no member of the medical  
10 executive committee or peer review committee ever  
11 reached out to you with questions during that  
12 time, correct?

13          **A.**           I can't -- I don't know if Debra  
14 Schamberg or Tina at the time was a member, but  
15 they had questions for me --

16          **Q.**           Okay.

17          **A.**           -- as I provided my reports.

18          **Q.**           But other than those two, no one  
19 else reached out to you with any questions from  
20 STOPNC?

21          **A.**           No, not to my recollection.

22          **Q.**           Do you understand the different  
23 types of licensing for a pharmaceutical pharmacy  
24 versus a branded pharmaceutical wholesaler or  
25 distributor manufacturer?

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1 BY MR. STRANCH:

2 Q. Okay. So let's go back to kind of  
3 the basics on this 2012 contract; this is your  
4 template, correct?

5 A. Yes, it is.

6 Q. And did you draft this yourself or  
7 did you have someone else draft it for you?

8 A. No, I actually borrowed this from  
9 another organization that -- or used it from  
10 another organization that presented it to me so  
11 it became a standard pharmacist contract.

12 Q. And what is your understanding  
13 about the difference between this contract and  
14 the 2007 contract? Do you have greater  
15 obligations under one or the other?

16 A. No, I would not say so, not in my  
17 mind. I think my intent was to spell out for my  
18 client a little bit more of my specific  
19 responsibilities as it relates to medication  
20 management --

21 Q. Okay.

22 A. -- just to give them a little bit  
23 more depth and also to give the contract a bit  
24 more -- to add some legalese to it, some legal  
25 language that addresses HIPAA.

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1           Q.           There has always got to be a little  
2   lawyer Latin in there.

3           A.           Yeah.

4           Q.           Okay. So from your intention,  
5   though, is that this contract does not add new  
6   obligations on you or on the client; it's a  
7   continuation of what it was before, it's just  
8   spelled out better?

9           A.           That's correct.

10          Q.           So all of the things that we  
11   discussed earlier that you did would be the same  
12   here, correct?

13          A.           Yes.

14          Q.           And is this contract still in  
15   effect between you and STOPNC?

16          A.           Yes, it is.

17          Q.           So you have renewed it after it  
18   expired in September 2015?

19          A.           And I think the terms -- that's  
20   correct, it's section one that it auto -- or it's  
21   a three-year term. I mean it just automatically  
22   renews --

23          Q.           Okay.

24          A.           -- unless either party, either  
25   party addresses or requests termination.

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1           Q.           Okay. So I am reading through the  
2           responsibilities here and it -- yeah, and it  
3           appears to be the same basically as what you had  
4           in your other one; is that correct?

5           A.           That is correct.

6           Q.           And this is your standard contract  
7           that you are now using with other clinics that  
8           you also talk with; is that correct?

9           A.           I believe it's with most, yes, sir,  
10          that is correct.

11          Q.           Okay.

12          A.           I may have made further changes,  
13          small changes, but no content changes in regards  
14          to my responsibilities.

15          Q.           And you operate it the same way  
16          under this contract as the old contract?

17          A.           I did, yes.

18          Q.           So it's a seamless transition?

19          A.           Yes.

20          Q.           Who was the designated medication  
21          nurse at STOPNC?

22          A.           At the time I believe that it was  
23          Cindy McClendon, she is a nurse there at the  
24          facility.

25          Q.           Is it still Cindy McClendon now?



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1           **A.**           Yes, I say that. I can't remember  
2           the termination date of the prior nurse  
3           coordinator manager, not Tina, but the other  
4           nurse that I mentioned.

5           **Q.**           Whose name no one can remember?

6           **A.**           Yes.

7           **Q.**           Okay. Would it be fair to say that  
8           you only have a couple of affirmative duties  
9           which is basically surrounding the narcotics  
10          control and documentation and the inspections and  
11          all other duties you have you have to be  
12          contacted first before you're triggered to do  
13          something, correct?

14          **A.**           Unless I saw something through  
15          direct observation that I felt like I wanted to  
16          share with the facility.

17          **Q.**           Okay. But that would be part of  
18          your inspection obligation then, right?

19          **A.**           That's right. It would come from  
20          that, that is correct. So, yes, as far as  
21          participating in these A through Q, that is  
22          correct.

23          **Q.**           Okay. So there is a lot of  
24          discussion about quality improvement process. Do  
25          you know who -- do you know if STOPNC has a

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1 quality improvement committee?

2 A. From my understanding they have a  
3 medical executive committee. I can't speak to  
4 whether -- I don't know if one is the other, but  
5 I know that --

6 Q. So you don't know who is on the  
7 quality improvement committee then?

8 A. Correct.

9 Q. You don't even know if they  
10 actually have one or not?

11 A. No. I mean, I can't testify that I  
12 do know that they have one.

13 Q. And if you could think back to this  
14 time period when you provided this new contract,  
15 was there any discussion between you and STOPNC  
16 at that time about changing your job  
17 responsibilities?

18 A. No --

19 Q. Okay.

20 A. -- there was no change or  
21 discussion.

22 Q. And so the signature date  
23 difference of April of 2013 versus September of  
24 2012 was just -- just slipped through the cracks  
25 and then that is when you signed it, correct?

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1                   MR. PINCKNEY: I am having problems  
2                   because I am reading this judge's order and  
3                   I can't see that these questions fall under  
4                   the judge's order. Do you read it  
5                   differently?

6                   MR. STRANCH: Well, we all agreed  
7                   in front of the judge that if he -- we can  
8                   talk about things that are clearly outside  
9                   the privilege.

10                  MR. PINCKNEY: And I was part of  
11                  that conversation -- I was not part of the  
12                  conversation, I listened to the whole thing.  
13                  I was on the phone too. And I want to tell  
14                  you that what happened at that conference to  
15                  me is different from what is in this order,  
16                  and the Court speaks to it best and that is  
17                  what it says. If you tell me how I am  
18                  misinterpreting something, I am really open  
19                  to it.

20                  MR. STRANCH: Yeah, I think that  
21                  the way that the Court --

22                  MR. PINCKNEY: These questions  
23                  don't really bother me much, to be honest.

24                  MR. STRANCH: I think the way the  
25                  Court took it is that if all of us agreed on

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1 something there, she did not feel that it  
2 was necessary to address in the order  
3 because we agreed upon it. So the things  
4 that she addressed in the order were the  
5 things where we did not have substantial  
6 agreement.

7 MR. PINCKNEY: And we had  
8 agreement -- and you know what I told you  
9 before the deposition started about  
10 agreement.

11 MR. STRANCH: Yes.

12 MR. PINCKNEY: Tell me what we  
13 agreed to then because I was not aware that  
14 we had an agreement. But if you tell me  
15 what was, than I would be in better shape.

16 MR. STRANCH: Yes. For example,  
17 one of the things that we all agreed upon is  
18 that if he made no substantive  
19 recommendations before medication was  
20 ordered, then there is no way the privilege  
21 applies and we can ask that.

22 MR. PINCKNEY: I did agree to that.

23 MR. STRANCH: Yes.

24 MR. PINCKNEY: I agreed to that and  
25 I put that in my motion.

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1                   MR. STRANCH: That's correct and  
2                   that is what we are working around to now.  
3                   That is what this question is related to.

4                   MR. TARDIO: Well, I think that  
5                   maybe -- I don't think that that is what the  
6                   question was. I think that it was border  
7                   and that may have prompted the objection.

8                   MR. PINCKNEY: Do you mind just  
9                   asking the question again?

10                  MR. STRANCH: Yes.

11                  BY MR. STRANCH:

12                  Q.           The question was: When you learned  
13                  about the fungal meningitis outbreak is that also  
14                  when you first learned that STOPNC had purchased  
15                  MPA from the New England Compounding Center?

16                  MR. TARDIO: I object to the form  
17                  of the question. And I also object in that  
18                  if there was any substantive discussion  
19                  between him and STOPNC at any point about  
20                  purchasing from compounders, purchasing from  
21                  anybody frankly it would be covered from  
22                  68-11-272. I can't instruct him not to  
23                  answer. He is not my witness, but we would  
24                  invoke the privileged on this question.

25                  MR. PINCKNEY: Well, I mean, maybe

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1           you can clear it -- I am concerned about  
2           this too. Maybe you could clarify by  
3           finding out where he first learned it if you  
4           ask him that simple question.

5                       MR. STRANCH: Okay.

6                       MR. PINCKNEY: And if he tells you  
7           that he got it from Debra, then I am going  
8           to invoke -- if they got it from reading the  
9           newspaper, that is something else or  
10          watching 60 Minutes.

11       BY MR. STRANCH:

12               Q.           Okay. Let's rephrase the question  
13           then. When did you first learn that STOPNC had  
14           ordered MPA from the New England Compounding  
15           Center?

16               A.           I can't speak to the exact dates,  
17           but I know that I was aware prior to the  
18           actual -- when this became public knowledge. So  
19           for as long as upon my medication reviews my  
20           direct observation of the facility, once they  
21           started stocking it, I was aware at that point,  
22           yes.

23               Q.           So that was when you first became  
24           aware?

25               A.           Correct, when I saw it actually in

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1 the facility upon observation.

2 Q. So you were not consulted prior to  
3 the first purchase, correct?

4 A. That is my understanding, that's  
5 correct, yes.

6 MR. STRANCH: Okay. I will tell  
7 you, what, then, let's take about a  
8 three-minute break and see if we can't wrap  
9 this up quickly then.

10 THE VIDEOGRAPHER: Off the record  
11 at 11:12.

12 (Recess.)

13 THE VIDEOGRAPHER: Back on the  
14 record at 11:33.

15 BY MR. STRANCH:

16 Q. Dr. O'Neal, I want to try and go  
17 back over some of your testimony very briefly and  
18 then I will have a couple of quick questions for  
19 you after that just to make sure everything is  
20 clear for the record.

21 A. Okay.

22 Q. You testified that you first became  
23 aware that STOPNC had purchased MPA from New  
24 England Compounding Center when you were doing  
25 your monthly inventory; is that correct?

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           **A.**           That's correct.

2           **Q.**           And you also testified that you  
3           were not consulted by STOPNC prior to any of  
4           their MPA purchases from the New England  
5           Compounding Center, correct?

6           **A.**           Is this a question that I can  
7           answer?

8                       MR. PINCKNEY: Yes, you can answer.  
9           You can answer any question about whether  
10          you consulted with STOPNC before they  
11          purchased the medication because you never  
12          did, so there is no privilege.

13                     MR. STRANCH: Right.

14                     THE WITNESS: Okay. Yes, that is  
15          correct.

16          BY MR. STRANCH:

17           **Q.**           That is correct. Okay. So you  
18          were not consulted.

19                     All right. I am going to hand you  
20          a document that we are going to mark as Exhibit  
21          873 and I will ask that you take a look at that.

22                     (Exhibit Number 873, Privilege Log,  
23          was marked for identification.)

24          BY MR. STRANCH:

25           **Q.**           You may not have seen this before



\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1 MR. PINCKNEY: And that is all it  
2 is?

3 MR. STRANCH: That's correct.

4 MR. PINCKNEY: The way that you  
5 phrased the question is not correct.

6 MR. STRANCH: Okay. Let me try to  
7 rephrase this a different way so that we can  
8 make this less confusing and still be clear  
9 on the record.

10 BY MR. STRANCH:

11 Q. Other than this two page document  
12 identified on the privilege log, do you have any  
13 written documents that you provided to STOPNC  
14 related to NECC or MPA?

15 A. Not that I am familiar with. Not  
16 that I recollect.

17 Q. And who did you provide these  
18 medication management monthly reviews to?

19 A. Cindy McClendon and/or Debra  
20 Schamberg.

21 Q. Okay.

22 A. I mean, without seeing these  
23 reviews, was this a roll-up of --

24 MR. PINCKNEY: We actually typed  
25 this up in my office and I thought that this

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           was redacted out of something that he did.  
2           But, no, we did -- the judge ordered us --  
3           we got the order seven days after it was  
4           issued and we were ordered within 14 days of  
5           the order to come up with a privilege log.  
6           And I determined as your attorney that only  
7           two pages were subject to the privilege.

8                       THE WITNESS:   Okay.

9   BY MR. STRANCH:

10           Q.           All right.  And so just to make  
11           sure we are clear on the record, other than  
12           these -- this two-page document that you provided  
13           to Debra Schamberg or Cindy McClendon, you are  
14           aware of no other documents that you provided to  
15           STOPNC related to New England Compounding Center  
16           or MPA?

17           A.           That's correct.  I just -- I don't  
18           know two pages, it must have been a summary of  
19           because each --

20                       MR. PINCKNEY:  Don't say anything  
21           else.

22                       THE WITNESS:   Okay.

23                       MR. PINCKNEY:  I will tell you  
24           after it's over.

25                       THE WITNESS:   Okay.

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           **A.**           I do not.

2           **Q.**           Have you had any conversations with  
3       St. Thomas about your consulting relationship  
4       with STOPNC?

5           **A.**           I have not.

6                       MS. HOLLABAUGH: That is all I  
7       have. Thank you very much.

8                       EXAMINATION

9       BY MR. TARDIO:

10          **Q.**           Dr. O'Neal, my name is Chris  
11       Tardio. I represent STOPNC, Howell Allen, Debra  
12       Schamberg and Dr. Culclasure. Do you understand  
13       who I am and who I represent?

14          **A.**           Yes, I do.

15          **Q.**           I have some questions for you  
16       related to your functions at STOPNC, so I want to  
17       talk in a broad sense.

18                       I think that you have already kind  
19       of explained generally what you did and I want to  
20       just ask you about some of those things.

21                       Well, first off, from 2007 when you  
22       started your relationship with STOPNC up until  
23       2012 when the meningitis outbreak happened, were  
24       your functions the same?

25          **A.**           Yes, they were.

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           Q.           Did they change at any point from  
2       '07 to '12?

3           A.           No, they did not.

4           Q.           Did your role as a pharmacy  
5       consultant for STOPNC change at any point from  
6       '07 to '12?

7           A.           No, it did not.

8           Q.           So setting aside what the '07  
9       contract says and the '12 contract says, from a  
10      practical perspective did your role and functions  
11      stay the same continuously from '07 up to  
12      September of '12?

13          A.           Yes, they did.

14          Q.           As part of your role at STOPNC or  
15      your functions at STOPNC, did you assist STOPNC  
16      and Ms. Schamberg in evaluating the safety of  
17      their medications practices?

18          A.           Yes, I did.

19          Q.           Did you assist STOPNC and Debra  
20      Schamberg in evaluating the quality of their  
21      medication practices?

22          A.           Chris, that depends on how you  
23      define quality, but I am going to say that if we  
24      defined it as a comparison of the services they  
25      rendered as compared to common or similar

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1 THE WITNESS: That is how I see my  
2 role for STOPNC or any of my clients is to  
3 bring my expertise and knowledge specific to  
4 pharmacy and medication management into that  
5 environment, so to answer the question, yes.

6 BY MR. TARDIO:

7 Q. And as part of your functions at  
8 STOPNC or your functions attendant to your role  
9 with STOPNC, you provided both verbal and written  
10 communications, right?

11 A. That's correct.

12 Q. So you provided both verbal and  
13 written recommendations and evaluations, true?

14 A. That is correct, yes.

15 Q. And I think you told us earlier --  
16 and tell me if I understood this incorrectly --  
17 that your understanding from the time you started  
18 with STOPNC up through the meningitis outbreak in  
19 2012 was that your verbal and written  
20 recommendations would go through Debra Schamberg  
21 or Tina Sullivan or Cindy McClendon to be shared  
22 potentially with the MEC, right?

23 MR. STRANCH: Objection.

24 THE WITNESS: It's my understanding  
25 that my reports are rolled up into a

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           quarterly report to the MEC. That is my  
2           understanding.

3       BY MR. TARDIO:

4           Q.           Was it your understanding in  
5           performing your consulting services that your  
6           evaluations and recommendations would end up in  
7           front of the medical executive committee in some  
8           form or fashion?

9                       MR. STRANCH: Objection.

10                  THE WITNESS: That is my  
11           understanding, yes, in that regard.

12       BY MR. TARDIO:

13           Q.           Was it your understanding that the  
14           medical executive committee would consider those  
15           evaluations and recommendations in making any  
16           potential changes to their medication specific  
17           practices?

18           A.           Yes, I saw my recommendations as  
19           part of the process.

20                       MR. STRANCH: Objection.

21       BY MR. TARDIO:

22           Q.           And I think you told us you don't  
23           know whether Ms. Schamberg or Ms. Sullivan were  
24           part -- were members of the medical executive  
25           committee, correct?

\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1           **A.**           That's correct.

2           **Q.**           You just know that ultimately or  
3           you understood that ultimately your  
4           recommendations and evaluations would end up in  
5           front of the medical executive committee in some  
6           form or fashion, correct?

7           **A.**           That's correct.

8           **Q.**           It was STOPNC who retained you to  
9           provide these medication-specific recommendations  
10          and evaluations, right?

11          **A.**           That's correct. Can we go off the  
12          record? Is there a tissue or something in here?

13                       MR. STRANCH: Yes.

14                       THE VIDEOGRAPHER: Off the record  
15          at 11:48.

16                       (Recess.)

17                       THE VIDEOGRAPHER: Back on the  
18          record at 11:48.

19          BY MR. TARDIO:

20          **Q.**           Dr. O'Neal, the reports that you  
21          produced as part of your consult that we have  
22          discussed here for several hours today, do those  
23          reports -- or did you intend with those reports  
24          to capture the results of your evaluations and  
25          also your recommendations?

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1       were the ones that we discussed earlier which are  
2       related to the monthly inspections, correct?

3           **A.**           Correct, which I would directly  
4       observe, correct.

5           **Q.**           And the remainder, they have to  
6       come to you before you were triggered to  
7       undertake something, correct?

8           **A.**           Yes, it sounds -- yes.

9           **Q.**           And you testified earlier also that  
10      your reports that you send from your monthly  
11      inspections --

12          **A.**           Correct.

13          **Q.**           -- are somehow rolled up -- I  
14      believe is the phrase that you used or summarized  
15      and then you believe at some point after that  
16      they are provided to the medical executive  
17      committee, correct?

18          **A.**           That is my understanding, correct.

19          **Q.**           But it's the summary or rollup of  
20      your records that is provided, correct?

21          **A.**           I probably use the term rollup in  
22      regards to statistically in regards to what is --  
23      what areas do they need to work on the most to  
24      improve in safety and quality, but I don't know  
25      if they present every note that I take over a



\*\*\*\*\*ROUGH DRAFT\*\*\*\*\*

1 period of quarter and then, you know, present  
2 that to the med exec committee. I don't know the  
3 answer to that.

4 MR. STRANCH: Okay. Give us one  
5 second off the record --

6 THE WITNESS: Right, no problem.

7 MR. STRANCH: -- and I think that  
8 we can wrap this up.

9 THE WITNESS: Okay, thank you.

10 THE VIDEOGRAPHER: Off the record  
11 at 12:02.

12 (Recess.)

13 THE VIDEOGRAPHER: We are back on  
14 the record at 12:06.

15 BY MR. STRANCH:

16 Q. Okay. Your affidavit that you were  
17 looking at in answering questions off of  
18 earlier --

19 A. Yes.

20 Q. -- did you draft that document?

21 A. No, I did not.

22 Q. Who drafted that document?

23 A. I don't know specifically.

24 Q. Who presented that document to you?

25 A. Gideon and Cooper.